

MAINE STATE HARNESS RACING COMMISSION

MINUTES OF MEETING

April 19, 2019

Gambling Control Board Conference Room

Department of Public Safety

45 Commerce Drive, Augusta, Maine

Commission Members Present: Michael Timmons, Chair, William McFarland, and Michael Graham

Commission Members Absent: None.

Staff Members Present: Ron Guay, AAG, Henry Jennings, Carol Gauthier, Miles Greenleaf, Joy Bonenfant

**1. Call the Meeting to Order and Introductions:** Michael Timmons, Chair

**2. Review and Approval of Minutes**

None.

**Review and Approval of Decision and Orders**

None.

**3. Commission Discussion/Overview of Procedures for Canceling Racing.** The Commission will discuss the process, procedures and rules for canceling racing with an objective of ensuring that the procedures best serve the interests of the entire harness racing industry going forward. Commissioner Timmons stated that this is a positive overview of the procedures in what they have to do if they're faced with canceling a program. The reason he is saying that is because they have two commercial tracks and seven or eight fair tracks and if they had to call on them he's just wondering if they would be getting a lot of mixed messages on how that happens. He's not critical but there are procedures in place, there are rules from the Maine State Harness Racing Commission and it would be time to have that discussion as the season is underway. The fairs will all be underway, and he does believe he can even use his own fair as an example and how that works; and possibly he hasn't been following all the rules that he should have been because once he started receiving phone calls he did a little more homework. He would open it up to Mr. Jennings to give a little overview, and he would open it up to the public. Mr. Jennings stated that the hearing officer and assistant attorney general has provided you with a copy of the public law that pertain to the subject. AAG, Guay stated that in terms of directly there are other things that tend to support this stuff but they're more indirect. There's certainly nothing that contradicts this. Mr. Jennings stated in Chapter 3 it does have a section under section 5 the judge's duties that speaks to the notion of cancellations. It basically specifies that you need a committee of 3 people to convene to make a determination. Agent of the licensed track, representative of the horsemen's association, and presiding judge and they make a decision. If it's not unanimous it's pretty clear what happens. If there are 2 votes that it was safe and 1 vote that it wasn't safe it speaks to what happens in terms of what the horsemen withdrawing from the race or scratching. Oddly, it doesn't speak to the opposite condition and the only other thing it says is if there is a decision to cancel then they are able to make that day up within 2 race days or reschedule that. That's all it really says in his view on cancelation. It's a little more elaborate on when they decide not to cancel. Maybe AAG, Guay had some additional comments or clarifications. AAG, Guay stated that the way the statute divides up sort of the industry the executive director is a creature partly of the Commission and partly of the Department of Agriculture. The executive director is the chief executive officer of harness racing, so the statute has some responsibilities that you as the commissioners have and then assigns to the department other duties. In the middle of all, is this executive director whose got a little bit of both. He doesn't have all the powers of the Commissioners obviously, but for the department he's the chief executive from the department's perspective. Ultimately, when you see chief executive that's like the governor, so the governor of harness racing is Mr. Jennings. That's essentially what the statute says. Now what the statute says is he gets to hire staff and there's not alot of discussion about staff, but there is a

discussion specifically around judges. The interesting thing is Mr. Jennings doesn't hire the judges, but the judges are identified as his staff. There's a little bit of disconnect. The judges are related to the running of harness racing. Then you look in the rules, Chapter 3 officials and track personnel. You have Mr. Jennings and the statute doesn't assume he is going to make all these calls. Who makes calls. It's pretty clear under Chapter 3 all of this stuff falls under judges' duties. Under section 5, "3-A. **Presiding Judge and Associate Judges.** Presiding Judges and Associate Judges shall have the authority to: A. Determine all questions of fact relating to racing. G. In determining whether to cancel a race or races, the Judges shall have due regard for the lives and safety of the drivers and the horses." This sentence is saying the judges decide to cancel a race. There is a committee under track conditions that's section 3. By the way 3-A means these duties are newer generally than this section that he is going to be reading. What does this committee do? It talks about withdrawals. It doesn't say that this committee gets together to cancel the race. Everything talks about the race is going to occur essentially so if all three people it's unanimous that the track is safe not that it's unsafe no unpermitted withdrawals may be made. The horsemen can't say you know what I'm concerned about my horse, I don't want to race, the tracks in bad shape, and I want to withdraw my horse from this race. What it says is all three members of the committee vote that it is safe the horsemen aren't going to be able to withdraw. Now if there's one of the three say that it's unsafe then they can withdraw but they have to put some money in. He thinks based on his understanding of some potential controversies there's some view that the committee decides whether it is unsafe, and he doesn't think that's what this says. The committee decides whether it is safe for the purposes of withdraw. The reason he says that is why if a horseman isn't going to withdraw a horse if the meets canceled. Withdrawal means the things happening and they're pulling their horse out of it. If the judge cancels it there's no need to withdraw the horse because the actual race isn't going to occur. That's his best reading to make all of the pieces fit together. If there is a concern, he would suggest that races are being canceled to quickly that's a discussion that probably the judges should come in and hear. If there's some guidance the Commissioners would like to give, he thinks that guidance would be given. It could be given to the executive director because the judges are technically his staff and the executive director could provide that guidance or the judges could hear it directly. Understand the judges have to take into account the health and safety of the animals and of the drivers. There's also been this view that the tracks can cancel. If you look under section 3 and the reason he included section 3 under Chapter 3 it says, "In matters pertaining to racing, the orders of the Presiding Judge and Associate Judges supersede the orders of the officers and directors of the association." What that means is a track does not have the authority if the judge says you are going to race. The track does not have the authority to cancel a race. The judge has the ability to order racing to occur as long as the Commission has awarded a race date. The judges can't go beyond their authority to give race dates to a track. AAG, Guay read the second sentence of section 3 which says, "Although track licensees have the obligation of general supervision of their meeting, interference with the proper performance of duties of any Racing Official is hereby prohibited." Commissioner Timmons stated the reason he wanted to have this discussion is that he believes that there might be some differences from track to track and from all of us after just listening from what we just heard. He would ask if anyone from a racetrack would like to share how they get to that decision. Michael Hopkins from Bangor Raceway stated that canceling of a race date there is no harder decision to be made. You come into work at seven in the morning and you see a projected weather forecast for a severe thunderstorm at three o'clock. You have to take into consideration the people that truck in. You go ahead, and you cancel the race is there going to be a judge there at nine o'clock. He tried last year to contact a judge. There was no answer at nine in the morning. He had to make that decision for the safety of the truck ins. He canceled the race date without a judge's consent, but he did talk to the horsemen. He went up to the barns and got the horsemen's feel. Should they cancel. Yes because of the projected forecast. Commissioner Timmons stated that basically they kind of had an understanding and almost every track when they start their meet for instance there are two representatives appointed to be representative of the horsemen because of the horsemen's agreement that they have that says the horsemen will be part of doing that. Maybe again he doesn't see where it says it would violate the rules to have that, but the judge needs to be involved in that based on their rules. The horse people how do you decide who's going to represent the horsemen. Mr. Hopkins stated that usually he has some horsemen up there. Heath Campbell he's

the horsemen's representative and he's always up at the barns, so he goes to Mr. Campbell where he's unable to get a hold of a judge at nine in the morning. If he calls and there's no answer and he have to make this decision by ten in the morning to cancel the race, and if he waits till two he has people traveling up from Portland and from north in Canada. If you look at the track conditions that morning and say you're not going to get a race in today. So, the decision is made with a horseman and himself or usually a state steward is there not that he does throw his comments and opinions in once in a while which are well respected. This decision last year to cancel was made. They did get severe thunder and lightning storms that day without a presiding judge availability. Commissioner McFarland asked Mr. Hopkins why the presiding judge how come there wasn't a cell phone available. Mr. Hopkins stated the call was made to him but there was no answer. He might have been sleeping late or in the shower. He doesn't know. Commissioner McFarland stated that the presiding judge realizing what his duties and roll is, he should make himself available by telephone, email or something on a situation like that. Commissioner Graham stated that he thinks the presiding judge should be involved in it and he thinks maybe this year you ought to be telling the presiding judge that you need to get in touch with him in case of an emergency. Mr. Hopkins stated yes. There are certain cases where his ringer might be off. He didn't get a response, so he had to make that decision with himself and the horsemen's association. William Kasabruski, horsemen stated Mr. Hopkins idea from Bangor is terrific. He's seen several horsemen leave Windsor and head for the track to go get Lasix three hours before a race and then the race gets canceled. You need to give them a time limit like six or eight hours before a race and let them know. It's hard to get the word out. It's costing them a fortune. Is this something you can fine tune for them. They are left helpless. Where it's pouring here it's not there. He's paid for Lasix and here he sat and had to go home. They want you to do the best you can to give them more time. Maybe on Facebook or something. Mr. Jennings stated the short answer is no from the state and the reason he says that is who is in the office on the weekend waiting for that information to come. Mr. Hopkins stated they have a text caster that goes out. You can enroll in it, it's free. They put a text caster out to all the horsemen when the races are canceled as soon as they know it's canceled. Steve Cobbett, Director of Operations, Scarborough Downs stated they agree canceling a race is extremely difficult. They do have a little bit of a process when they do cancel a race it includes the State Steward, the Presiding Judge, the track crew and the horsemen's representative. Lots of time the horsemen's rep may not be available when they are canceling because they're making that decision at four or five o'clock in the morning depending on what post time is during a certain time of year. Charlie Malia or the presiding judge has always been available when he makes the call. The first call that's made in the morning is to the track crew for the condition of the track that's related to the presiding judge. Mr. Malia and he make a decision from there after that decision is made he calls Dennis May who's their state steward when we're all in agreement if the horsemen's rep is available he would talk to them if not he would go and call one of their executive board members. Once that decision is made, Mike Sweeney is contacted, and he post it on their website and he also lets the horsemen's association know so they post it on their website. Then he makes a telephone tree where he calls a representative at Bangor which is Mark Harris, Jamie Gerard in Windsor, Stephanie Gray in Cumberland. They get the word out, so they do not have to ship. They take into account the weather at least two or three days ahead of time. Kim Pike director of racing at Fryeburg stated that he cannot remember when they canceled a race. However, a couple of years ago they had to cancel. The showers keep coming in and the track deteriorated throughout the day. Some horsemen starting to crumble a bit and they went through the procedure that you said. They had Roger Smith, the horsemen's representative, and he. On this particular time the horsemen's rep said that the track was getting bad and they were getting to the feature race, and they thought it was good enough to go but the vote was 2 to 1. They were concerned about the horses. They followed procedure. Mr. Smith decided they were going to race. If it's a 2 to 1 vote the horsemen do get to pull their horse without any penalty. AAG, Guay read section 5 subsection 3-B(2) **Scratch**. "Any decision other than unanimous by this committee will allow any entrant to scratch his horse or horses after posting depositing ten percent (10%) of the purse to be raced for with the State Steward, payable to the Maine Harness Racing Commission. In the event sufficient withdrawals are received to cause the field to be less than six, then the licensed track shall have the right of postponement". So, if the vote is less than unanimous. If it's unanimous all three agree that it's unanimous there are no withdrawals allowed. If it's less than unanimous they

have to put ten percent in there, and if enough horses withdraw then the track can say you know what we don't have a big enough field because it's six or less, then they're going to postpone it. Commissioner McFarland asked if they had anyone in that feature race withdraw. Mr. Pike stated yes, they did. Commissioner McFarland stated because in the past he heard it at some of the venues when there has been situations where horses were allowed to be pulled that there was a lot of criticism in some respect from other horseman that this individual was allowed to pull their horse out when in fact if we were following the rules and that happened then they should be penalized. This may be a good educational experience here today that we can bring forward for the future of Maine harness racing. Mr. Pike stated at this particular time they continued the race and they had a meeting 6<sup>th</sup> or 7<sup>th</sup> race and it was getting worse, so going forward they would have to ask if those drivers pull their horse they would have to give ten percent penalty. Commissioner Graham stated they might not lose it because it says they could come to the commission and the commission can decide if the withdrawal was for a good cause. Mr. Pike stated going forward this year they are doing some drainage around the track so hopefully they will have a better track to race on. Commissioner Timmons stated that in addition to the judges that were involved it really and truly is a team decision that takes place. At his own racetrack it's a team decision and it's easier because most of the time if it gets to that point it's going to be unanimous that this track is dangerous, and they shouldn't race on it period. They have come up with a system that has worked pretty well. They have the town, and the sanders, and they have graters and they could if a shower came up and the boys came in from warming up and said this is getting bad, they would just scrap it off the way Farmington did. They would put that sand that was brought in ahead of time. They'd sand where the starting gate starts, and the starting gate would go out to make certain it is safe, and they would go on with no more than an hour delay and go on to race. It is a team effort. If it came up that they had a feature race and they didn't want to race they have never followed this. He's guilty. They could look when it comes to rulemaking they could look at what it might cost that if you have a race day the person from Bangor travels to Cumberland and they get rained out after they get there that you could do it like they do at Plainridge there's a fee in there that comes out to help pay for your travel. If you didn't get the word that you were on Lasix and you traveled 155 miles down and back and you had a fee it would at least cover your Lasix and transportation and it would take the sting out of it. He doesn't know how expensive that would be. Mr. Pike stated that would be hard to do. If you call them off at six o'clock in the morning that's not an issue but if you call them at eleven or twelve and horsemen are still on the road that's where it would come in handy for the horsemen. That happened to him years ago. Mr. Kasabruski asked on the withdrawal on a vote they need a quorum, they need a three vote, they can have a majority vote is that correct. Commissioner Timmons asked to do what. Mr. Kasabruski asked to cancel a race. Commissioner Timmons if it came down to that vote the presiding judge has the authority without having a vote the way he reads the rule. Mr. Kasabruski asked if this is also going to apply to the sire stakes. Commissioner Timmons stated the same rules apply to everyone. Mr. Kasabruski stated that a \$34,000 purse would send me home with \$3,400 if he fell into that category in theory. Commissioner Timmons stated if you were going to scratch your horse and we were going to race that's exactly what it says in the rules, so that's true. Mr. Jennings stated that you're not getting that your paying that. Commissioner McFarland stated that it is good that they are having this. He was always of the impression as he thinks most of the other race directors in the State of Maine that it was the three individuals that did get together and made the ultimate decision, the venue representative, the presiding judge and the harness horsemen's representative. Well obviously, he's been informed here today that is not the case as far as whether they are going to race or not race with respect to who has the final decision. It's not the committee, 3-A says it's the presiding judge that will ultimately make that decision. All the other part of this title or rules gives them the ability to withdraw if in fact it's a less than unanimous vote. That's really what it's about. Ten percent plays in there as of today so he would like to say to Mr. Pike when he talked about his hundred-dollar trucking fee. One hundred dollars is better to be given and be turned away than if you raced and come in sixth, seventh, or eighth. Commissioner Timmons asked if anyone else in the audience would like to have any input because they are taken and when rulemaking comes along they can change things if they need to or they can at least leave on the same page. That information has to start with the race directors at all the fairs and the people that are in charge because you can say what you want if the president of the fair is really involved with that and

they stand in on the decision they are not going to say you don't have a say in this. He doesn't think there is any judges out there that doesn't respect the administration and it can be a team effort. What they are saying is the judge has the final decision. Commissioner McFarland stated that he would guess his best is nine out of ten times the deciding factor has to do with the ability of that vehicle to get around the track safely. That's usually the deciding factor. If that starting gate slipping and sliding and now it's a danger to the horses and it's a danger the betting public and everyone else. Catharine Damren asked if it is possible to send that to the race directors at each of the fairs that are not here. Mr. Jennings stated it is just in Chapter 3. Commissioner Timmons stated it will be brought up at the judges meeting on the 23<sup>rd</sup>. Commissioner McFarland stated with respect to what Mr. Pike and Mr. Kasabruski said there earlier that the Harness Racing Commission has put these requirements on them as far as getting there 3 hours early for Lasix and a large number of horses are all on Lasix. In order for them to maintain meets these people have to be coming from further away than they used to. It would be nice to come up with some type of reimbursement for the gas money, but he doesn't know how to do that.

4. **Overview/Update of 2018 Prohibited Substances Positive Tests.** Miles Greenleaf will give an overview/update of the prohibited substance positive test results that have been reported for the 2018 race season. Mr. Greenleaf stated that they received results back from the qualifying races this year and the first weekend of the races and all the results came back clear. They're good for right now.

5. **Other Business**

Commissioner Timmons stated they had a bill that they all worked on LD 715 and that was a very positive outcome and now in front of them which is hot off the press it's an act to amend the laws related to harness racing. Don Barberino stated that they did not participate in the writing of that bill. The OTB's were not very happy about it. The jest of that bill is to create OTB's letting the tribes in northern Maine open up OTB's. It reduces the tax rate that's currently 50 percent of their gross revenue. That reduces the tax rate makes it more favorable to open an OTB. In addition to that it calls for a one percent of their handle whenever the racetrack runs if they're within 50 miles of a racetrack or half a percent when they're closed. It also allows someone to open an OTB without having to have a liquor license. There are some positives in there. They objected to was the fact they wanted to change their zone of protection from 35 miles to 15, but he doesn't think the intent was to hurt the OTB's that are currently structured. He's just speaking to Mr. Tardy to get some clarification if they build them up north they put some within 25 miles of each other. They as a group don't care about that. They wanted to charge them the one percent if the racetrack was operating. They are going to change that. Overall that's an overview of the bill. Commissioner McFarland asked Mr. Barberino if there was any update on the ADW process in legislature. Mr. Barberino stated Don Marean had a couple of conversations with the Governor's office. Senator Russell Black is putting together a coalition out for Representatives and Senators to go have a formal meeting with the Governor to address why this bill is being delayed. Hopefully that meeting will happen in the next 10 days. Churchill Downs is putting in legislation to change the law that's currently structured. They don't like the idea of having one vendor, one RFP. They think it should be opened up to anyone who wants to come in. When they put that bill together that's the way it was written. That's how other states do it.

- a. Update on the internet wagering investigation.

AAG, Guay stated his topic is on the internet wagering investigation in some respect it could ducktail on the comments that Mr. Barberino just made but to the extent there are any questions on the ADW and the conclusion on his report on his investigation. As some of you know he is the Assistant Attorney General for the Gambling Control Unit. With that the internet wagering as it's stylized here on the agenda specifically there's laws on the book regarding advanced deposit wagering and wagering on horse races. They exist in two different sections of Title 8. One is in Chapter 11 which is harness racing and the other one is Chapter 31, so you have two different laws that cover internet wagering. You have this activity regulated by both the harness racing law and the gambling control board law. He'll do the high-level description of the internet wagering here. The Gambling Control Board section that covers this activity actually makes for the first time explicitly advanced deposit wagering a felony. The legislature clearly

identifies that as a criminal offense. The Harness Racing Commission law says that it's illegal as well. The difference between the two laws is harness racing says betting on horse races has to occur at a track or at an off-track betting facility. The advanced deposit wagering law under the Gambling Control Board says it doesn't say that it has to occur at either a track or an off-track betting facility. What that says is that betting on horse races other than live so advance deposit wagering law that the Gambling Control Board administers doesn't affect the OTB's and the commercial and fairs. If it's by phone or internet specifically if there is the same activity which is betting on horses depending on where it occurs, you might have two different agencies involved. For this client as a result of Mr. Barberino several years ago at a public hearing indicated that this activity was going on. Specifically, you've heard him discuss Churchill Downs was conducting advanced deposit wagering accepting bets in the state, so you folks asked him to open an investigation. Mr. Jennings and he had a very brief meeting about a year and a half ago to discuss this matter and at that time the Gambling Control Board was in the mist of rulemaking; and what they thought was going to be occurring was the RFP, so the Gambling Control Board was more focused on that stuff. For you folks here, he did put a dated request in thanks to Mr. Barberino. They were having a bit of a hard time to find out who was doing this stuff, and the reason why is if you're a state employee and you try to go to any of these sites there's a big warning that shows up on your screen and to the extent that the activity could be criminal it's not something he didn't want to be doing at home outside of official business. Mr. Barberino did indicate that there was something called multijurisdictional licensing and interestingly Oregon issues multijurisdictional licenses for internet wagering on horse races, so he put in a dated request on behalf of the Maine State Harness Racing Commission about a year ago and they did not respond immediately. He asked them to send the information and he heard back that he had to submit a FOIA request. We have FOIA in the state too and we have to respond to them, so on behalf of the Commission he put an official FOIA request to the State of Oregon. They ultimately got back to him and they indicated they have the following entities are licensed in Oregon. Specifically, in Oregon when they get their license they have to indicate what states they accept wagers in, so that's pretty helpful. Tell him which of these companies accepts wagers from Maine, so they provided a list. US Off-Track also known as the Greyhound Channel accepts wagers in Maine, Premier Turf Club also known as Bet PTC accepts wagers from Maine, Amwest Entertainment and Wager.com accepts wagers from Maine, Ebet accepts wagers from Maine, Express Bet accepts wagers from Maine, and NYRA Bet accepts wagers from Maine. They just happened to have a meeting with the Gambling Control Board earlier this week so rather than present this information to you first, he took the opportunity to talk to the Gambling Control Board and he discussed with the chairman and he also gave some advice to the Commissioner of Public Safety. At Tuesday's meeting of the Gambling Control Board, Mr. Champion and he will be going back to the Gambling Control Board and providing a letter, and he's hoping the Gambling Control Board will authorize the executive director when they find out about these to be able to issue letters. He's talking about the Gambling Control Board their statute says that the Gambling Control Board needs to send out letters telling people warning them that they could be subject to prosecution. The Gambling Control Board itself does not prosecute. It is a civil enforcement. The investigation has to be done by a police department, a criminal prosecuting type of entity; however, the law does say that the Gambling Control Board does issue letters to people to make them aware of what the requirement is for doing this activity in Maine. Essentially the letter in Maine will say you need a license to do this in Maine and if you don't have a license and you accept bets from people in the State of Maine on horse racing you are liable for prosecution under the felony law. That's what the Gambling Control Board can do. He thinks the policy perspective is and he's not going to speak for the Gambling Control Board, but his understanding is that all people that we're aware of that could accept bets so even the people on this list that aren't accepting wagers in Maine they would send out letters to them. They are not going to accuse them of accepting wagers in Maine but say we know you offer these services, we want you to be aware of what the laws in Maine. To the extent that they are already complying that's cool, but one of the things he is not a criminal prosecutor but in the criminal prosecution typically there's this other element and you don't see that in the harness racing like the drug cases; but for the criminal prosecution there's generally something called a

mens rea or a state of mind. People at least have to be aware of what they're doing is potentially problematic or that they intended to do the activity. They don't need to know that it's illegal they need to know that they have an awareness of what they are doing. These letters will be very helpful down the road once they send them out. He hasn't had the opportunity to speak to Mr. Champion again on this, but he did speak to the executive director of the Harness Racing Commission. He would suggest once the Gambling Control Board starts issuing these letters that the cooperation between the two executive directors; and as a courtesy maybe the executive director of the Harness Racing would be made aware that the letters were being sent out, and that if the Commissioners were to authorize Mr. Jennings he as well can issue a letter and we would draft the letter ahead of time and that one they would describe the penalties available under the harness racing. All of these entities would be getting two different letters one from the Gambling Control Board and one from the Maine State Harness Racing Commission. His belief is that based on his understanding on how these businesses are setup and how they work, it's possible that some of these people when they set their businesses up because the law was not in effect that specifically made it a crime. When they setup their platform they didn't put Maine in their tick off list where they exclude bets, so they might have excluded another state because they new it was. They have a reasonable belief that once they let people know what the law is in Maine that these people that they are aware are accepting wagers they have a reasonably certain they are going to stop taking the wagers. If they don't then they have briefed the Commissioner of Public Safety. That would be a law enforcement decision. The Gambling Control Board nor the Harness Racing Commission would be involved; but it would be very helpful if as part of the file if someone is accepting wagers after they get these letters from both the Gambling Control Board and from the Harness Racing Commission. That's much more powerful he would view if he was a criminal prosecutor which he's not it's pretty hard for that entity at that point to say oh I didn't know. Is it something that's going to shut this stuff down immediately he can't say that it would; but he does think it's a reasonable step and it will actually go a long way for probably the majority of the people doing this. He does know that Churchill isn't accepting bets at this point. Commissioner Graham stated that isn't true. They're probably the biggest one in the State of Maine. He knows that for a fact. AAG, Guay stated so you're saying that Twin Spires accepts bets. Commissioner Graham stated yes. Mr. Hopkins stated you can go on line to do it. AAG, Guay stated the problem is to the extent it's kind of like a felony kind of thing. The State of Oregon has reported that they're not taking bets. At least they are authorized to, and they have a license in Oregon to do so. They would be violating the terms of their license if they're accepting wagers from Maine. Has someone in this room placed a bet on Churchill. Commissioner Graham stated yes, he had. AAG, Guay asked how long ago. Commissioner Graham stated yesterday. AAG, Guay stated what he could do if the Commission wants he can call the State of Oregon and indicate that they have received reports that this particular vendor is doing so and ask again to just confirm whether they're authorized to do so in Oregon. Commissioner McFarland stated he was trying to understand what the point would be. Obviously, they gave us information that's not right. From a perspective of Oregon what do they care really of what goes on in Maine. The information they gave out was false. AAG, Guay stated the reason why it would be relevant is because there is an affirmative obligation for people who have the license in Oregon to disclose where they're taking bets. According to Oregon they are not authorized to accept wagers in Maine. He thinks the State of Oregon would be interested in knowing that. Commissioner Graham stated that he is concerned that we're losing a tremendous amount of money that should be going in state and we're not getting any of it. He doesn't know how we proceed in changing it. We need to do that as soon as possible. Commissioner McFarland asked when you place a \$10 bet on your horse in Plainridge what is the fee a person might expect to be assessed for that. Commissioner Graham stated there is no fee. Commissioner McFarland asked where do they derive their money from. Is it from the track itself? Commissioner Graham stated that he doesn't know that end of it. Mr. Barberino stated if the commission is 20 percent on a win place show it's usually around 16 percent so that track Churchill Downs takes that money it's just as if you went to an OTB only you're not going to an OTB you're doing it on the phone. The commission break down is the same, so that's how they make their money. They're everywhere. If it's 20 percent they're paying their track fee to

Plainridge probably 3 percent, they keep 17 percent and pay whatever expenses they have out of that. It's just like at an OTB. They keep their 20 percent, fairs keep their 20 percent and then you pay track fee whatever it might be, and you retain the remainder of it. No additional fee or surcharge or anything like that. Commissioner Graham stated he knows for a fact he's not one of them, people in Maine spend thousands of dollars betting on horse racing on the internet. Commissioner Timmons stated that the Gambling Control Board, Harness Racing and AAG, Guay are going to keep them up to date on what he finds from what he just presented to them. It's going to happen with letters going out etc. Next month we'll get a little update. AAG, Guay suggested the proposed action with this new information isn't really going to change whether the Gambling Control Board or the Harness Racing Commission will issue letters really. If anything, it speaks more to maybe the need to do so, but he's really uncomfortable contacting a state agency unless you want him too. Absent that he's going to let the Oregon investigation he'll be done with that. Commissioner Graham stated that he thinks he can answer his question because he thinks what Twin Spires said to Oregon is they do not take bets on Maine tracks and they do not but anybody in Maine can bet on any track in the United States other than the State of Maine. Commissioner McFarland stated they still bet in Maine but not on Maine tracks. AAG, Guay stated just to be clear. What Oregon reported it's not that they're taking bets on Maine tracks but does not allow wagering in Maine. Apparently, they know where the bets are being placed and if it's in Maine these other entities are able to say this person is in Maine we're not accepting bets in Maine. There are other things like Daily Fantasy Sports and it'll say residents of Maryland not eligible and if you're in Maryland and you try to place a bet it's not going to let you place a bet. Is there a way for them to block based on states location? Mr. Barberino stated yeah, you wouldn't allow them to sign up. You go on line and you sign up and Maine wouldn't be listed. Wagering is available on the following states. AAG, Guay stated that they would have to enter a credit card is that correct which is associated with an address. Mr. Barberino stated yes. They should block people from being able to open an account and they do that. He noticed that Penn National does not take wagers from Maine. They read the law and that's how they interpreted it. Mr. Barberino stated that he worked in Connecticut and they got letters from the AG that said stop taking wagers for example from Illinois. Guess what because you're license by a state and these companies have gaming licenses and you don't want to put that in jeopardy, so to put out a letter would be very effective. Especially no company wants a black mark on their name. Churchill is clearly violating the law as well as those other companies are too. Mr. Jennings wanted to clarify what he understands what the next step is that they're going to draft a letter to bring back to the Commission at the next meeting to get their approval. AAG, Guay stated right, they're not sure what the Gambling Control Board's going to do. They are going to ask them to allow their executive director to issue letters as he becomes aware of it instead of having to bring it back to the board. He's going to suggest it's going to depend on the comfort here. These letters aren't disciplinary like notice of hearings and stuff like that where you have to have all this due process stuff. Letters he thinks could be issued by the executive director directly without the requirement of the board or the commission issuing it.

b. Judge's meeting to be held on April 23, 2019.

Commissioner Timmons asked Mr. Jennings where the judge's meeting would be. Mr. Jennings stated it is in room 108 in the Deering Building as you enter the building through the public access at 10:00 a.m.

## **6. Public Comment**

Commissioner Timmons asked for public comment. Ken Spinney addressed the Commission by cell phone. He commented on cancelation of races. He stated if the Maine State Harness Racing Commission, the MHHA, the Downs, and there are men in this business that have heavy equipment got together, he thinks there would be a way to prevent races from being canceled because he believes that the tracks could be in better shape. The track has been loose but it's getting better. There are animal advocacy groups looking at harness racing mostly right now for a variety of reasons. He recently had a horse break its leg at Bangor. He doesn't want to see that happen and he thinks if the track was grated down at Scarborough and some fine stone dust on it, there are people

here in Maine that know how to do it. It's a joint venture between the Commission, the Association, and the Downs for the safety of the horses and the drivers.

Debbie Patterson stated that she is in the process of getting a simulator up and running that will be at all the tracks this year.

**7. Schedule of Future Meetings:**

May 17, 2019

June 13, 2019

**8. Adjourn**

10:40 a.m.